## COMMONWEALTH OF VIRGINIA DEPARTMENT OF GENERAL SERVICES Division of Engineering and Buildings



# REAL PROPERTY MANAGEMENT MANUAL

**Chapter 2 Fee Acquisition** 

#### **About this Manual...**

The Real Property Management Manual provides policies and guidelines for the conduct of real estate transactions by state departments, agencies and institutions. The Manual is composed of seven chapters, each providing policy for a major area of real estate.

Chapter 1 Acquisition by Lease

Chapter 2 Fee Acquisition

Chapter 3 Surplus Real Estate (being developed) (currently DGS Directive No. 1) Chapter 4 Conveyances (being developed) (currently DGS Directive No. 1)

Chapter 5 Leasing Land and Space for Placement of Communication Towers and Antennas

Chapter 6 Interagency Transfers (being developed) (currently DGS Directive No. 1) Chapter 7

Employee Housing (being developed) (currently DGS Directive No. 6)

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### INTRODUCTION

**1. PURPOSE:** Agencies and institutions of the Commonwealth of Virginia are delegated authority to handle real estate transactions under the general overview of the Department of General Services. Virginia Code §2.2-1149 provides, in part, "...no state department, agency or institution shall acquire real property by gift, lease, purchase or any other means whatsoever without following guidelines promulgated by the Department of General Services for acquiring fee interests in real property.

Various other statutes specifically affecting real property acquisition by agencies and institutions of the Commonwealth have been incorporated into these guidelines. Wherever statutory requirements appear in this Manual, the specific statute is cited. In each case, the entire statute should be read to understand the full implications. While every effort has been made to ensure that all general statutes have been addressed, each person undertaking an acquisition under these guidelines must ascertain that the transaction is in legal compliance and, in particular, that there are no other more specific laws applicable to the agency or institution or to the project.

In addition to legal compliance, the policies and procedures have been developed to (1) provide consistency in the way the Commonwealth conducts its real estate business, (2) mitigate the risks inherent in real estate acquisition, and (3) ensure that the Commonwealth receives value for its investments.

- **2. MANDATORY vs. DISCRETIONARY ACTIONS:** Where the term "shall", "must" or similar term is used in this Manual, the action is required. Where the term "should" or similar permissive term is used, the action is at the discretion of the Agency.
- **3. AUTHORITY:** Virginia Code §2.2-1149, §2.2-1154
- **4. RESCINDED POLICIES:** Policies related to acquisition of fee interests in real property set forth in the Department of General Services/Division of Engineering and Buildings' Directive Number One, dated June 15, 1984, are hereby rescinded.
- **5. EFFECTIVE DATE:** January 1, 2003
- **6. POLICY ADMINISTRATION:** This Policy is administered by the Division of Engineering and Buildings, Bureau of Real Property Management. Submit required documents and materials to the Bureau at the following address:

Bureau of Real Property Management 805 East Broad Street, Room 102 Richmond, Virginia 23219 Telephone: (804) 225-3874 FAX: (804) 371-7934

- **7. INFORMATION ACCESS:** This policy and the associated forms can be downloaded from the Internet at <a href="http://deb.dgs.state.va.us/BRPM/index.asp">http://deb.dgs.state.va.us/BRPM/index.asp</a>. The forms can also be obtained on floppy disks or through email by contacting the Bureau of Real Property Management. The forms will be updated periodically and posted on the Internet.
- **8. APPLICABILITY:** Departments, agencies and institutions of the Commonwealth shall follow these guidelines in the acquisition of fee interest in real property. This does not apply to land acquired by the Department of Transportation for highway right of way or to certain other acquisitions specifically exempt under Virginia Code §2.2-1149.

- **9. WAIVERS:** Waiver from any of the requirements contained in this Manual will be issued only on an exceptional basis. Legal requirements cannot be waived. Requests for waiver must be submitted in a timely manner to the Director of the Division of Engineering and Buildings c/o the Bureau of Real Property Management.
- **10. DISCLAIMER:** These guidelines are directed to departments, agencies and institutions of the Commonwealth of Virginia. They shall not be construed to create rights or interests, vested or otherwise, in third parties including but not limited to non-state; landowners, lessors, property managers, and mortgagors and all other persons or entities who may assert rights, interest or expectancies in real property or interests in real property that is or may be the subject of state acquisition.
- **11. SYNOPSIS OF LEGAL REQUIREMENTS:** The following provides a brief summary of the various statutes applicable to real property acquisitions by departments, agencies and institutions of the Commonwealth of Virginia. Other statutes, including those relating to a specific agency or institution, may apply.

#### §4-4.01 of the Appropriation Act (current version): Capital Projects

- Acquisition of real property, as the term "acquisition" is defined in the instructions for preparation of the Executive Budget, is a capital project.
- The instructions for preparation of the Executive Budget except certain utility easements.
- The Act sets forth the General Assembly's intentions that all capital projects to be undertaken by agencies of the Commonwealth, including institutions of higher education, are to be pursuant to approvals by the General Assembly at its regular sessions in even-numbered years (certain exceptions allowing approval in odd numbered years are enumerated).

#### Virginia Code <u>§2.2-1149</u>: Approval by the Governor; DGS to promulgate guidelines

- Notwithstanding any provision of law to the contrary, no department, agency or institution shall acquire
  real property by any means without following guidelines promulgated by the Department of General
  Services and obtaining the prior approval of the Governor. The Department of General Services shall
  review every proposed acquisition and recommend either approval or disapproval of such transactions
  to the Governor based on cost, demonstrated need, and compliance with the guidelines.
- The guidelines are provided in this Chapter 2 of the Real Property Management Manual.

#### Virginia Code <u>§2.2-1154.A</u>: Available state-owned land

• Before purchasing or otherwise acquiring land for any capital improvement, agencies must inquire of the Department of General Services whether suitable state-owned land is available which can be authorized for the purpose for which additional land is needed.

#### Virginia Code §2.2-1154.B: Location in the Commonwealth's urban centers

• The Department of General Services shall require every agency or institution, when siting state facilities and programs, to evaluate the feasibility of siting such facilities and programs in the Commonwealth's urban centers.

#### Virginia Code <u>§10.1-1188</u>: Environmental Impact Report

- Agencies must prepare and submit an environmental impact report to the Department of Environmental Quality on each major state project. "Major state project" is defined as the acquisition of an interest in land for any state facility construction which costs \$100,000 or more.
- Within sixty days of the receipt of the environmental impact report by the Department of Environmental
  Quality, the Department shall review and make a statement to the Governor commenting on the
  environmental impact of each major state facility. The statement of the Department shall be available to

the General Assembly and to the general public at the time of submission by the Department to the Governor.

• The State Comptroller may not authorize payments of funds from the state treasury for a major state project unless the request is accompanied by the written approval of the Governor after his consideration of the comments of the Department of Environmental Quality on the environmental impact of the facility.

#### Virginia Code §25-235, et seq: Properties acquired by or under threat of condemnation

• Known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1972, this Act governs acquisitions of real property by or under threat of condemnation.

#### Virginia Code <u>§2.2-1136</u>: Real property records

• The Division of Engineering and Buildings shall maintain real property records of all state institutions and agencies, except records of real property acquired by the Department of Transportation for the construction of highways.

**12. DEFINED TERMS:** Unless the specific context suggests otherwise, the following terms used throughout this Chapter of the Real Property Management Manual shall mean:

Agency: Any department, agency or institution of the Commonwealth of Virginia.

"Institution" includes, but is not limited to, any corporation owned by the

Commonwealth and subject to the control of the General Assembly.

**Appropriation** The Act of the Virginia General Assembly appropriating funds for the

Act: Commonwealth's biennial budget. The Act appropriates specific dollar amounts and

contains language directing and prohibiting certain actions. The language is particularly important because it often over-rides any Virginia law to the contrary.

Bureau: The Bureau of Real Property Management within the Division of Engineering

and Buildings, also known as BRPM.

**capital project:** The acquisition of real property, or construction of or additions to improvements, as

defined in §4-4.01 of the Appropriation Act.

**Chapter:** A chapter of the Real Property Management Manual published by the Department of

General Services.

**Commonwealth:** The Commonwealth of Virginia. This term is sometimes used interchangeably with

the term "state".

**DEB:** The Division of Engineering and Buildings, a division of the Department of General

Services.

**DEQ:** The Department of Environmental Quality.

**DGS:** The Department of General Services.

**DPB:** The Department of Planning and Budget.

**Procurement** Virginia Code §2.2-4300, et seq. (Public Procurement Act) supplemented by

Act: the Agency Procurement and Surplus Property Manual published by the Division of

Purchase and Supply and by the Construction and Professional Services Manual published by the Bureau of Capital Outlay Management in the Division of

Engineering and Buildings.

## §2.1. POLICIES

This Section provides the policies for statutory compliance and for the conduct of due diligence in real property acquisitions. Except as noted to the contrary, these actions are mandatory for every acquisition of fee interest in real property.

1. CAPITAL PROJECT: §4-4.01 of the Appropriation Act (the "Act") establishes that acquisition of real property, as the term "acquisition" is defined in the instructions for preparation of the Executive Budget, is a capital project. The Act further sets forth the General Assembly's intentions that all capital projects to be undertaken by agencies of the Commonwealth, including institutions of higher education, are to be pursuant to approvals by the General Assembly. No acquisition of real property will be recommended for approval unless and until the acquisition is supported by an approved capital project, except as provided in the Act.

#### A. Exceptions:

- 1. The Act allows the Governor to approve certain capital projects of an emergency nature when the General Assembly is not in session.
- 2. The Instructions for Preparation of the Executive Budget excepts certain utility easements. The excepted easements include those appurtenant easements needed for water, sewer, electricity, telephone and other necessary services supporting the Commonwealth's facilities.

#### **B.** Additional References:

- Instructions for Preparation of the Budget published by the Department of Planning and Budget.
- Construction and Professional Services Manual published by the Division of Engineering and Buildings, Bureau of Capital Outlay Management.
- **C. Project Initiation:** Approval to initiate the project is provided by way of the form CO-2 (See the Construction and Professional Services Manual). Approval to initiate the project does NOT authorize the actual acquisition.

NOTE: References to the Appropriation Act are current as of January 1, 2002. These references only paraphrase portions of the Act. It is important for the user of this Manual to read the current version of the Act and the full text of the cited sections.

- **2. AVAILABLE STATE-OWNED LAND:** Virginia Code <u>§2.2-1154.A</u> requires that, before acquiring land for any capital improvement, agencies must inquire of the Department of General Services whether there is any suitable state-owned land available which may be authorized for the purpose for which additional land is needed.
- **A. Inquiries:** Contact the Bureau of Real Property Management for information on available land. The request must include the amount of land needed, any siting requirements (such as available transportation systems) and acceptable geographic locations.
- B. **Notices:** The Bureau of Real Property Management will post notices of available surplus property on the Internet. The Bureau's web page is at <a href="http://deb.dgs.state.va.us/BRPM/index.asp">http://deb.dgs.state.va.us/BRPM/index.asp</a>.
- **3. LOCATION IN URBAN CENTERS:** Virginia Code <u>§2.2-1154.B</u> provides, in part: "The Department of General Services shall require every state department, agency or institution responsible for the construction, operation or maintenance of public facilities within the Commonwealth, when siting state facilities and programs, to evaluate the feasibility of siting such facilities and programs in the Commonwealth's urban centers."
- **A. Guidelines:** The following guidelines must be followed for every acquisition of real property for facilities and programs:

- 1. **Definition of Urban Center:** The definition of an urban center is a city or incorporated town.
- 2. **Evaluation:** Prior to acquiring real property for facilities and programs, the Agency shall evaluate the feasibility of siting the facilities and programs in the Commonwealth's urban centers.
- 3. **Documentation:** Prior to submitting a request for approval of acquisition of property that is not in an urban center, the agency shall provide a narrative report documenting its analyses and findings in compliance with the requirements of Virginia Code §2.2-1154.B.
- 4. **Exceptions:** State facilities and programs under the purview of this policy do not include land acquired for parks, forests, natural areas, wildlife management areas or other similar uses, property acquired by gift or devise, property that expands an existing facility or land for which construction of facilities is not contemplated.
- **B. Downtown Commercial Districts:** House Joint Resolution 185, 1992 session of the General Assembly, encourages agencies to investigate the possibility of rehabilitating existing space in downtown commercial districts throughout the Commonwealth, and to give preference in such instances to downtown locations. Therefore, when seeking sites for development of office space and service facilities that could be located in downtown commercial districts, preference must be given to the downtown locations.
- **4. CO-LOCATION AND CONSOLIDATION:** Co-location of offices and facilities, particularly when combined with consolidation of support functions and space, can have potential for cost savings as well as improved service delivery and visibility to clients. Prior to selecting property for purchase, Agencies should first determine whether opportunity exists for co-locating with other state agencies.
- **5. ENVIRONMENTAL IMPACT REPORT (EIR):** Virginia Code <u>\$10.1-1188</u> provides that Agencies shall prepare and submit an Environmental Impact Report (EIR) to the Department of Environmental Quality, and obtain approval, before undertaking a "major state project". This program is administered by the Department of Environmental Quality. The guidelines are contained in the manual entitled *Procedure for Environmental Impact Review of Major State Facilities* published by the Department of Environmental Quality.
- **A. Major State Project:** Virginia Code §10.1-1188 defines "major state project" as the acquisition of an interest in land for any state facility construction, or the construction of any facility or expansion of an existing facility which is hereafter undertaken by any state agency, board, commission, authority or any branch of state government, including state-supported institutions of higher learning, which costs \$100,000 or more.
- **B. DEQ Review:** The Code further provides that, within sixty days of the receipt of the environmental impact report by the Department of Environmental Quality, the Department shall review and make a statement to the Governor commenting on the environmental impact of each major state facility. The statement of the Department shall be available to the General Assembly and to the general public at the time of submission by the Department to the Governor.
- **C. EIR Approval:** The State Comptroller cannot authorize payments of funds from the state treasury for a major state project unless the request is accompanied by the written approval of the Governor after his consideration of the comments of the Department of Environmental Quality on the environmental impact of the facility.
- **D.** Acquisition Approval: The Department of General Services will not recommend approval of an acquisition that qualifies as a "major state project" unless and until it receives a copy of the EIR approval. Unless specifically requested, DGS does not require a copy of the entire approved EIR.
- **E. EIR Questions:** All questions regarding the EIR, including whether a particular acquisition qualifies as a "major state project", should be referred to DEQ.
- **6. ENVIRONMENTAL ASSESSMENTS AND SURVEYS:** Under United States Code Title 42, Chapter 103, known as the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* ("CERCLA"), a property owner can be held liable for environmental contamination even though the owner may have had nothing to do with the contamination and even though the contamination may have occurred prior to the owner's purchase of the property.

An "innocent landowner" legal defense may be available, but only if the purchaser exercised "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" prior to purchasing the property. The "all appropriate inquiry" standard is met through the environmental survey.

In addition to the legal issues, the environmental survey is needed to avoid unknowingly assuming liability for environmental contamination.

- **A. Policy:** Prior to acquiring fee interest in real property by any means, Agencies must obtain a Phase I, and if appropriate, a Phase II environmental survey complying with the ASTM standards referenced in this Section of the Manual. Environmental surveys, assessments and reports prepared for any party other than the Commonwealth are not acceptable.
  - 1. This requirement applies to all types of properties with the exception of single family residential properties and multi-family residential properties containing five units or less. Note however, that residential properties may contain environmental hazards, such as friable asbestos and leaking underground storage tanks. The Agency must therefore take appropriate actions to ensure that any environmental hazards are identified and the cost of remediation is estimated so there are no later surprises that give rise to additional funding requirements.
- **B. Standards:** The American Society for Testing and Materials (ASTM) has developed standards that are generally accepted as representing "all appropriate inquiry". For copies of the ASTM standards, contact ASTM at:

ASTM 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 Phone: (610) 832-9585

Phone: (610) 832-9585 Fax: (610) 832-9555

The Standards can also be purchased and downloaded from ASTM's web site at <a href="http://www.astm.org/">http://www.astm.org/</a>

- 1. **Standards:** Phase I Environmental site assessments must meet ASTM Standard E1527 Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process or ASTM Standard E1528 Standard Practice for Environmental Site Assessments: Transaction Screen Process.
  - a. In the event the Phase I Environmental Survey Process or the Transaction Screen Process reveals potential contamination, a Phase II Survey in conformance with ASTM Standard E1903 Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process must be completed before proceeding with the acquisition.
- **C. Contaminated Property:** If the Phase II Environmental Site Assessment reveals the presence of actual contamination, the Agency may elect one of the following options:
  - Discontinue the acquisition process.
  - Allow the owner of the site to undertake removal of the contamination and remediation of the site. Removal of contaminants alone is not sufficient. Additional testing is required to ensure that both the source of the contamination and the contaminated soils are properly removed/remediated.
  - Obtain cabinet level approval to proceed with acquisition of the property with some or all of the risks and liabilities for the contamination. Cabinet level means the Secretary of Administration and the Agency's cabinet secretary.
- **7. CONFORMANCE WITH APPROVED MASTER PLAN:** Properties to be acquired for expansion of existing facilities must be within the boundaries of an approved master plan as required by §4-4.01 of the Appropriation Act. This requirement does not apply to devises and utility easements or to property for which the location is specifically cited in the Appropriation Act.
- **8. APPRAISALS:** The value of property or property interests to be purchased (with money, goods or services) must be documented by one or more appraisals, as set forth in the following chart:

Current Use	Assessed Value Thresholds	Number and Types of Appraisals (USPAP Standard 1)	Type of Report (USPAP Standard 2)
Commercial/Office, Industrial/Warehouse and Hotel/Motel and Multi-family Residential:	Less than \$500,000 \$500,000 or greater	1 Complete 1 Complete + review OR 2 Complete	Self-contained Self-contained Self-contained
Single Family Residential:	Urban less than \$200,000 Rural and all \$200,000 or greater	1 Restricted 1 Complete	Summary Self-contained
Undeveloped Land	Rural less than \$1,000,000  Rural \$1,000,000 or greater and all urban land	1 Complete 1 Complete + review OR 2 Complete	Self Contained Self Contained Self Contained
<b>Exceptions:</b>	When the total cost of property is less than \$10,000 an appraisal will not be required, provided the Agency documents the value of the property through the local tax assessment and/or other objective data. Appraisals are not required for donations of real property, whether by gift or devise; except, appraisals are required in the case of partial gifts.		

- **A. Appraisal Standards:** All appraisals shall conform to the guidelines provided in the *Uniform Standards of Professional Appraisal Practice* (USPAP), latest edition, promulgated by the Appraisal Standards Board of the Appraisal Foundation (<a href="http://www.appraisalfoundation.org/">http://www.appraisalfoundation.org/</a>).
- **B.** Appraisal Ownership: Appraisals prepared for any party other than the Commonwealth are not acceptable as documentation of the property value. However, appraisals made for other parties may be used as background information to help substantiate negotiated purchase costs.
- C. Appraiser Qualifications: Appraisers, including review appraisers, must be currently (at the time of the appraisal) licensed by the Commonwealth of Virginia as Certified General Real Property Appraisers and have extensive experience in appraising (or reviewing, as the case may be) properties similar to that being appraised. In addition, appraisers must meet the competency provisions of the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation.
- **D. Highest and Best Use:** In all cases, the highest and best use determined by the appraiser must be an economic use. Public uses as well as any value adjustments attributable to the public nature of the purchaser will not be accepted.
- **E.** Solicitation for Services: Appendix C, *Procurement of Appraisal Services*, must be attached to each solicitation for Appraisal Services.
- **F.** Landowner Rights: The landowner or the landowner's agent must be afforded the opportunity to accompany the appraiser during the appraiser's inspection of the property.
- **G. Review and Acceptance:** All appraisals are subject to the review and acceptance by the Bureau of Real Property Management. If there are anomalies in the appraisal, the Bureau may reject the appraisal, contact the appraiser to obtain additional information or require review by a review appraiser.
- **9. TITLE EXAMINATION:** In all cases, the chain of title for the property to be acquired along with any appurtenant easements must be examined to determine whether any liens or other encumbrances exist, whether the seller or donor has authority to convey the property and whether any conditions or restrictions limit use and/or ownership of the property. Two options are available: an attorney's title opinion letter, or title insurance.

- **A. Title Opinion Letter** Title opinion letters are prepared by attorneys who search the public records and report on mortgages, liens, judgments, easements or other encumbrances affecting the property. An abstract is prepared that provides a condensed history of all recorded instruments in the chain of title. The opinion letter provides the attorney's written opinion and certification of the status of title. No protection is provided for matters that are not of record, such as fraud or forgery.
  - 1. **Use of the Report:** The Agency must carefully review the title abstract, opinion letter, and all of the supporting documentation to ensure that any defects and encumbrances will not adversely affect marketability and use of the property.
  - 2. **Procurement:** Attorneys must be procured and assigned to the project by the Attorney General.
  - 3. When Required: A title opinion letter is required for acquisition of any property for which title insurance is not obtained.
- **B. Title Insurance:** In addition to a title report, title insurance provides ongoing protection for matters that are not of record and for matters resulting from the title examiner's negligence. Title insurance is required for acquisition of property costing more than \$500,000 and property of any value upon which construction of improvements is contemplated. Title insurance is recommended for all other acquisitions. It is typically more economical to purchase title insurance and have the title insurance company handle closing than to obtain a title search and separate closing services.
  - 1. **Title Commitment:** Prior to issuing the policy, the company will issue a title insurance commitment (sometimes known as a title binder). The commitment provides the purchaser with a report on ownership, mortgages, liens, judgments, easements or other encumbrances affecting the property. The commitment also establishes conditions for issuance of the title insurance policy, including exceptions that will not be insured.
  - a. The title commitment will reveal title defects, easements and encumbrances against the property. Most title defects and encumbrances can be readily evaluated for their impact. Inappropriate exceptions can most often be negotiated out of the commitment.
  - b. Every owner must be accounted for, and no exception to an owner, no matter how small the division of ownership, is acceptable.
  - c. Any exception to matters that are not of record is unacceptable.
  - d. As a matter of clarity, the agency should have the company remove exceptions to easements and other encumbrances known not to exist.
  - 2. **Insurance Coverage:** Title insurance must be for an amount equal to the purchase price of the property (in the case of a gift, the local assessed value will suffice). If improvements are planned, the amount must be for the full value of the land plus the incremental value of the contemplated improvements as they are constructed.
  - 3. **Procurement:** Appendix D, General Guide for Procuring Title Insurance and Related Services, provides additional guidance and advice.
  - 4. **Coordination of Services:** It is typically most efficient and economical to have the title researcher coordinate with the surveyor to avoid duplicative research.
- **C. Agency Review:** Whether the Agency obtains a title opinion letter or a title binder, the data must be reviewed in detail by the Agency to evaluate the impact of any easements or other encumbrances on the ultimate use of the property. In particular, the Agency needs to consider the impacts of:
  - Any easements or other agreements that allow others to enter the property periodically to inspect and repair facilities.
  - Any easements or other agreements that prevent or impede future development of the property.
  - 1. **Resolution of Issues:** When title matters will adversely affect the use or ownership of the property, the problem must be corrected before acquisition of the property takes place. The Bureau of Real Property Management and the Attorney General's Office can provide assistance with respect to title matters as well as title reports and title insurance generally.

- **10. LAND SURVEYS:** Surveys serve two distinct purposes: They are used to create or support the legal description by which title to the property will be transferred, and they inform the consumer (and their title insurer) with respect to the physical boundaries, encumbrances, etc. of the property being acquired.
- A. Survey Standards: The scope of the survey varies according to the type of property being acquired:
  - 1. ALTA/ACSM Land Title Surveys: The American Land Title Association (ALTA) (<a href="http://www.alta.org/">http://www.alta.org/</a>), in conjunction with the American Congress on Surveying and Mapping (ACSM) <a href="http://www.acsm.ne">http://www.acsm.ne</a>t), has adopted standards for surveys and plats that allow title insurance companies to rely on the completeness and accuracy of the survey. ALTA/ASCM surveys (under then current standards) are required for acquisition of commercial property, property on which significant improvements are planned and acquisition of particularly complex and valuable properties irrespective of the type of use or location.
  - 2. **Boundary Survey:** A boundary survey may be sufficient for acquisition of unimproved acreage when there is no plan for future development on the site. The scope of work is limited to the measurement and depiction of the boundary lines or perimeter of the parcel. The boundary survey may also include matters observed which cross the boundary lines, such as roads, streams, visible utility lines, encroachments, etc.
- **B.** Survey Plats: Survey plats must be in recordable form and be prepared and signed by a surveyor certified and licensed by the Commonwealth of Virginia.
- **C. Mathematical Closure:** The minimum acceptable closure of boundaries is 1:10,000, although modern surveys are expected to close within 1:1,000,000 or better. The Bureau can provide assistance in review of surveys and in determining mathematical closure of the boundaries.
- **D.** When Required: A recent survey is required prior to purchase of real property and recommended for all other acquisitions. The term "recent" is defined as six months or less. Older surveys may be acceptable for land that is of negligible cost, provided no construction is contemplated on the land.
  - 1. **Non-conforming Surveys:** Where development is not planned and the property to be acquired is of minimal value, an existing survey plat may be acceptable. Contact the Bureau of Real Property Management, very early in the acquisition process, for a determination of whether an existing plat can be used. The request must include a copy of the existing survey and any supporting documentation (plats, tax maps, etc.) and an explanation of how the Agency will ensure that there are no encumbrances or adverse uses that will inhibit full public use of the property.
  - 2. **Title Insurance Coordination:** Except as provided above, survey plats must be up-to-date and conform with any requirements of the title insurer.
- **11.100-YEAR FLOOD PLAIN:** With the exception of parking lots and other facilities that would not be substantially damaged by flood, Agencies shall not acquire improved real property, or real property on which improvements will be constructed, when the improvements fall within a 100-year flood plain as established by the Federal Emergency Management Agency (FEMA).

NOTE: Depictions of 100 and 500-year flood plains can be generated on the Internet at <a href="http://www.esri.com/hazards/makemap.html">http://www.esri.com/hazards/makemap.html</a>. Be certain to read any caveats regarding use of the site and reliance on the data.

- **12. SITE CONDITIONS:** When acquiring land for construction of facilities, sufficient information must be obtained concerning site conditions and attributes to avoid acquiring land that will not support the planned facility without significant additional costs. Following are some of the more obvious conditions and attributes to consider:
  - Transportation systems.
  - Storm water drainage.
  - Availability of sewer and water service.
  - Availability of telephone, electric and other utilities.

- Sub-surface and groundwater conditions.
- Soil type(s).
- Ingress and egress.
- Locations of easements encumbering the site.

Improved properties must be inspected to determine their condition and to develop cost estimates for making the improvements suitable for the Agency's use. Following are some of the more obvious matters that require inspection by qualified individuals:

- HVAC
- Plumbing and plumbing fixtures
- Electrical systems
- Elevators
- Roof
- Wall and ceiling penetrations, such as windows, doors and skylights
- Insect and rodent infestations
- **A. Inspection:** Irrespective of the type of property to be acquired, the property must be inspected prior to the conduct of negotiations to ensure it meets the Agency's needs. Although this inspection will not reveal all faults and problems, it will ensure that adequate information is available to make informed decisions. Where very large, overgrown tracts are being acquired so that physically inspecting the entire property is not possible, then the inspection should include the exterior boundaries, any passable interior roads or driveways and any improvements. In addition, review of available aerial photography is advisable.
- **13. BUYER BROKERS:** Buyer brokers (that is, brokers hired to represent the purchaser) may only be used if (i) they do not represent sellers in the geographic area where property is being sought, and (ii) the fee is not a commission based on the purchase price. If a buyer broker is to be used, they must be selected through the procurement guidelines for non-professional services set forth in the *Agency Procurement and Surplus Property Manual* published by the Division of Purchase and Supply.
- **14. PROCUREMENT:** The acquisition of real property is not governed by the Public Procurement Act. The Procurement Act does govern procurement of the services required in real property acquisition (such as appraisals, surveys, title insurance, and engineering and environmental studies).
- **15. CONFLICTS OF INTEREST:** Persons engaged in real estate transactions with or on behalf of the Commonwealth are subject to the provisions of the State and Local Government Conflict of Interests Act (Virginia Code §2.2-3100 et seq.).

## §2.2. PROCEDURES

Real property, and interests in real property, can be acquired in several different forms. This Section addresses the various types of transactions and provides procedures and guidelines relating to each.

- 1. **PURCHASE:** Purchases of fee interests in real property are subject to all of the requirements set forth in §2.1 of this Manual.
- **A. Purchase Offers and Negotiations:** Purchase costs must be fair and adequate to property owners, and the Commonwealth must receive value for its investment. Property values and negotiations must be well documented. The following provides minimum guidelines:
  - 1. Purchase Cost: The target purchase cost is the value (or average value) established through the appraisal(s) obtained following §2.1.8 of this Manual. If the negotiated amount, including the cost or value of any goods or services to be provided by the Agency, exceeds such value, the agency must provide to the Bureau of Real Property Management:
    - A summary of the negotiations and copies of all available documentation, including offers and counter
      offers.
    - An explanation of the rationale for acquiring the property at above market value (as opposed, for instance, to finding another site).
  - a. **Initial Offers:** Initial offers must not exceed the average value established by the required appraisals. This provision does not apply to properties being acquired under threat of condemnation. In those cases, see Virginia Code §25-248.
    - In cases where a contract is to be entered prior to obtaining the required appraisals, the contract price must be conditioned on confirmation of the price by the appraisals.
  - b. **Additional Costs:** If the Agency is to provide any goods or services as part of the transaction, the Agency must provide to the Bureau of Real Property Management a description of the goods or services and an estimate of their value. The value of such goods or services will be added to the purchase price in determining the total cost.
- **B.** Condemnation: The conduct of real property acquisition by or under threat of condemnation is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1972 (the "Uniform Relocation Act") set forth in Virginia Code §25-235, et seq. See Virginia Code §25-236 and consult with the Attorney General's Office for applicability.
  - 1. Agencies acquiring properties under the threat of condemnation must conduct the acquisition as provided in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1972, notwithstanding conflicting provisions of this Chapter. The provisions of this Chapter of the Real Property Management Manual which do not conflict with Virginia Code §25-248 or other applicable statutes regarding condemnation must be followed.
  - a. These provisions are not intended to (i) modify, supersede or overcome any statutory requirement(s) regarding condemnation by departments, agencies and institutions of the Commonwealth of Virginia, or (ii) vest any rights or expectancies in any third parties, including property owners whose property is the subject, or may be the subject, of condemnation.
- C. Seller Tax Incentives: A seller may want to subject sale of real property to a "like kind" tax deferred exchange allowed under §1031 of the U. S. Tax Code or invoke other legally permissible tax incentives. With approval of the Attorney General's Office, agencies may accommodate the seller's use of such incentives, provided there is not adverse impact on the acquisition or use of the property and further provided the purchaser is not required to

validate or otherwise participate in the seller's claims and/or declarations needed to establish the claims. The Attorney General's Office should be consulted early in the negotiations to determine the legal implications of the seller's request.

- **2. GIFT** (other than by devise): With the exception of appraisals set forth in  $\frac{\$2.1.8}{1.8}$  of this Chapter, gifts of real property are subject to all of the requirements set forth in  $\frac{\$2.1}{1.8}$  of this Manual.
- **A.** Partial Gifts: Partial gifts (e.g., a portion of the value of the property is donated and a portion is purchased, either for cash or any goods or service of value), are subject to all of the actions set forth in §2.1 of this Manual, including appraisals.
- **3. DEVISE:** Devises are legally and procedurally difficult because, as a general rule, they require rejection rather than acceptance and because they are bound by whatever terms the testator may have attached in the will. Given the complexities, Agencies should contact the Attorney General's Office immediately upon learning of a devise. The Bureau of Real Property Management may also be able to provide advice and assistance.
- **A.** Applicable Requirements: With the exception of appraisals set forth in §2.1.8 of this Chapter and Location in Urban Centers set forth in §2.1.3, acceptance of a devise is subject to all of the requirements set forth in §2.1 of this Chapter.
- **B.** Rejecting the Devise: Arguably Virginia Code §2.2-1149 supercedes the laws governing devises such that a devise to the Commonwealth cannot be effective until approved by the Governor. However, it is best to avoid reliance on the Governor's disapproval as a method to reject a devise. Therefore, the Agency must diligently pursue a decision to accept or reject a devise within the statutory period. The statutory time within which a devise may be rejected is nine months after the death of the decedent or nine months after the last action that would ascertain the devisee's interest (See Virginia Code §§64.1-188 through 64.1-191). There are numerous reasons why a devise would be rejected, particularly including environmental contamination for which the Agency would become liable.
- **4. EASEMENTS:** Acquisition of easements and rights of way (excluding those exempt by law), although constituting only limited interests, are subject to all of the requirements set forth in §2.1 of this Chapter, except as otherwise noted.
- **5. EXCHANGE:** Acquisition of property through an exchange is subject to all the requirements of a purchase; except, exchanges of small areas of land for boundary adjustments are not considered to be capital projects.
- **A.** Exchange Values: The property acquired through an exchange, other than for minor boundary adjustments, must be of at least the same value, as determined through appraisals conducted under §2.1.8 of this Chapter, as the property conveyed, or equivalent cash to equalize the value of the exchange must be obtained.
- **6. TRANSFER AMONG AGENCIES:** Transfer of property among agencies, when the property is already in the name of the Commonwealth, is not subject to the provisions of this Chapter. Such transfers are governed by Virginia Code §2.2-1150.A or other applicable statute. Policy governing interagency transfers is established in Chapter 6 of this Manual.
- **7. RELATED FOUNDATIONS:** Foundations often purchase property for the sole purpose of re-conveying the property to the Agency it supports. The purchase is typically undertaken with the expectation that the Agency will accept the property and fully reimburse the foundation. However, since foundations are not bound to the same level of diligence as the Agency, the foundation's actions cannot be held as an alternative to the requirements and guidelines established in this Manual. Therefore, acquisition of property from related foundations must follow the guidelines provided in this Manual for each type of transaction.
- **A.** Costs: The cost of real property purchased from a related foundation must not exceed the lesser of (i) the amount paid for the property by the foundation, plus the foundation's actual carrying expenses, or (ii) the current market value of the property. Any exception to this provision should be requested prior to acquisition of the property by the foundation.

## §2.3. CONTRACTS

A written contract for the acquisition of real property is needed to (i) prevent sale of the property to another purchaser; (ii) establish the understandings of the parties; and, (iii) allow the purchaser access to the property in order to conduct necessary studies and due diligence tasks. This Section addresses purchase contracts in general and the policies, procedures and guidelines to be followed.

- 1. CONTRACT TERMS AND CONDITIONS: A purchase agreement form containing options to fit a variety of circumstances, along with instructions for completing the form, are provided in **Appendix E** Irrespective of the form used, a purchase agreement must provide adequate contingencies to ensure that the Agency will have sufficient time to complete, and make any necessary decisions regarding, all of the matters required under this Manual.
- **A.** Contingencies: Contingencies must include (but are not limited to):
  - Appraisal(s) if applicable.
  - Funding and allocation of funds, if applicable.
  - Title work and survey.
  - Environmental survey(s).
  - Approval of an Environmental Impact Report, if applicable.
  - Owner's affidavit concerning mechanic's and materialmen's liens, or satisfactory evidence of payment.
  - Physical inspection of the property.
  - Any studies and inspections needed to ensure the property will support the planned use.
  - Governor's final approval of the transaction.
- **B.** Security Deposit: Payment of security or "good faith" deposits is strongly discouraged. In no event will a contract be approved if it requires a security deposit without proper contingencies and refund provisions. Security deposits must be held by a third party Escrow Agent through an Escrow Agreement approved by the Attorney General's Office. This does not include nominal amounts (usually \$1 to \$10) needed to create the binding contract.
- **C.** "Time is of the Essence": Time is of the essence clauses usually are not acceptable. In no event is the Governor or the Governor's designee to be put in the position of having to meet arbitrary deadlines.
- **D.** Leases: If property to be acquired is encumbered by existing leases that will not expire prior to closing, then additional documents such as lease assignments and lease amendments may be necessary in addition to specific contract provisions. The Attorney General's Office and BRPM should be consulted to determine what additional documents may be required.
- E. Real vs. Personal Property: One of the most common and potentially contentious issues in real estate closing is the question of who gets what. The term "real estate" includes everything attached to the land and buildings (which should include such things as chandeliers and built-in wall shelves). However, there is no firm definition of the term fixture", and each party may have different expectations as to what the seller may remove. It is therefore imperative to determine what is to remain on the property early in the negotiations and to document the decisions in the purchase contract.
- **F. Submitting the Contract for Approval:** The contract must be signed by all the owners of the property and the Agency must provide the Bureau with a copy of the deed by which the seller acquired title. Signatures must be notarized so that the document may be recorded.

- **G. Approval:** Purchase contracts and options must be approved by the Director of the Division of Engineering and Buildings prior to delivery to the seller. Each contract or option must provide that the final purchase is subject to approval by the Governor pursuant to Virginia Code §2.2-1149.
  - 1. The contract should be approved and executed prior to undertaking any of the required due diligence efforts.
  - 2. The contract should be submitted to the Bureau of Real Property Management for review and comments while it is still in the draft stage.
  - 3. When negotiations are completed, submit the final contract, signed by the seller and approved as to form by the Attorney General's Office, to the Bureau of Real Property Management for approval. If there is not a contingency in the contract for appraisal(s) of the property, the appraisal(s) must be submitted to the Bureau with the contract.
  - 4. The DEB Director may elect to forward certain contracts and options to the Director of the Department of General Services or the Secretary of Administration for approval.
- **H.** Execution: The Agency is to execute the document only after it has been approved by the Director of the Division of Engineering and Buildings.
- I. Merger: A legal principle known as merger operates when the property that is subject to the contract transfers pursuant to the contract. If there are duties on either party that should take place after the conveyance, or if there are conditions that may need to be enforced after the conveyance, there should be specific contract language to enable the provision to survive the closing. This is often expressed in the manner of "this provision shall survive closing". The Attorney General's Office should be consulted for more specific advice.
- **2. PURCHASE OPTIONS:** Purchase options convert to purchase contracts when they are exercised, so purchase options must have all of the elements necessary to an adequate contract.
- **A.** Terms and Conditions: Purchase options must conform to all of the requirements and restrictions provided above in §2.3.1. Purchase options may allow the agency to enter the property and conduct all due diligence and other necessary studies prior to exercising the option, or it must provide adequate contingencies and step-out provisions once the option is exercised.
- **B.** Right of First Refusal: The right of first refusal is a type of purchase option that allows a party to meet the terms of a purchase offer made by another party. The strategy is impractical unless the holder of the right of first refusal has funds available to make the purchase at an unknown time. The strategy is therefore not often employed by agencies and institutions of the Commonwealth.
  - 1. Like other purchase options, the right of first refusal converts to a contract when it is exercised. The terms are often those provided in the third-party offer that triggers the right of first refusal. However, some or all of the terms can be negotiated up front. In particular, the right of first refusal should specifically allow the holder to conduct due diligence with respect to title and environmental matters and to inspect the property when the right is triggered. The following are other issues that should be considered when negotiating a right of first refusal:
    - What notice the owner must provide to trigger the right of first refusal and what notice the holder must provide to exercise the right.
    - Whether the right of first refusal extends only to the current owner or to future owners as well.
    - Whether the right of first refusal terminates upon refusal of the holder of the right to exercise it (if the offer that triggers the right does not result in conveyance).
    - Whether the right is triggered by sale of all of the property or just a portion.
    - Whether the right is triggered by any conveyance of the property or just an arms length sale.
    - Whether the property is or can be encumbered by any liens, financing or otherwise.
- **C. Governor's Approval:** Purchase options must provide that acquisition of the property is subject to approval by the Governor pursuant to Virginia Code §2.2-1149.

D.	<b>Purchase Option Approvals:</b> Two approvals are required. Purchase options must be approved by the Directo of the Division of Engineering and Buildings before they are entered, and a second approval must be obtained from the Director before exercising the option.

## §2.4. REVIEW PROCESS

Before recommending a transaction for approval, the Bureau of Real Property Management will review the transaction and related documentation to ensure that all necessary prior approvals have been obtained and that the transaction otherwise complies with the policies and procedures established in this Manual. This Section provides a brief overview of the review process and the documentation needed to complete the review.

- 1. **DOCUMENTATION:** All documentation applicable to the transaction must be submitted at least ten business days in advance of the proposed closing date. However, since there are many factors that may require additional review or other may otherwise delay approval of transactions, the documentation should be submitted as early as possible in the process.
- A. Documentation Required: Depending on the transaction, the required documentation may include:
  - A copy of the approved form CO-2.
  - Documentation regarding locating in an urban center.
  - A copy of the EIR approval.
  - Environmental survey report(s).
  - Appraisals and documentation of negotiations.
  - Any available reports on the condition of the property.
  - Cost estimates for necessary repairs or renovations.
  - A copy of the executed and approved contract.
  - Title insurance commitment or title abstract and report (the Bureau may also request copies of documents that create encumbrances or generate exceptions to the title policy), the physical survey and the deed. These items must be reviewed together and thus should be submitted as a package.

The Bureau will request other information and/or documentation as appropriate.

Note: Legal instruments requiring approval as to form by the Attorney General must be so approved before the Bureau will make its recommendation for approval of the transaction.

- **2. DISCLOSURE:** Any exceptions or anomalies must be disclosed, including potential conflicts of interest of parties involved in the transaction, departure from procurement law in procurement of any services, and any agreements with a seller or seller's agent other than as provided in an approved contract or purchase option.
- **3. REVIEW:** Within BRPM, the term review means to read and understand all of the documents and documentation associated with each transaction. Although BRPM is not limited in what it might review and/or challenge, the following are typical review issues:
- **A. Appraisal(s):** Appraisals are reviewed to ensure that they meet the requirements of this manual, to determine that appraisers are properly licensed and qualified, that the appraiser, appraisal and report conform to the appropriate guidelines promulgated by the Appraisal Foundation, and that appraisals do not contain factual error or anomalies that would render them unreliable.
- **B.** Survey: Surveys are reviewed to ensure that they meet the requirements of this Manual and are otherwise sufficient to support the acquisition and subsequent use of the property.
- **C. Title Report/Title Insurance Commitment:** Title opinion letters and insurance commitments are reviewed to ensure that they meet the requirements of this Manual, that they are accurate, and that there are no unreasonable or overly broad exceptions or requirements.

- **D.** Legal Description: The survey, title opinion letter or insurance commitment and the deed will be reviewed together to ensure that the legal description conforms among the documents and that the description is otherwise adequate.
- **E.** Environmental Survey(s): Environmental surveys are reviewed to ensure they meet the requirements of this Manual and that they do not indicate unacceptable risks of taking title to contaminated property.
- **F. Deed:** The deed is reviewed to ensure it meets the obligations under the contract and the requirements of the title commitment and that it does not introduce new issues.
- **G.** Leases, if any: Any leases to be assumed are reviewed in their entirety to ensure there are no conditions the Agency cannot honor and to ensure that there are no extraordinary conditions that would change the terms of the transaction. Leases assumed through acquisition of the underlying fee should not be significantly different in effect from leases entered directly by the Agency.
- **H.** Contract: Contracts are reviewed in the final acquisition process to ensure there are no unsatisfied contingencies or unmet promises.
- **4. PROBLEM RESOLUTION:** Questions regarding issues of a legal nature will be referred to the Attorney General's Office. Questions regarding business issues will be referred to the submitting Agency. Questions regarding established policies or procedures will be referred to the appropriate management level in the Department of General Services or to the Secretary of Administration.
- **5. RECOMMENDATION:** The Bureau of Real Property Management will recommend approval/disapproval within an average of eight business days after all needed documentation is received and all issues have been resolved. The Bureau will not recommend incomplete packages that do not conform to requirements contained in this Manual.

## §2.5. TRANSACTION CLOSING

Closing, also known as settlement, is usually held at the office of the settlement attorney or agent and is usually fairly simple, provided certain decisions are made well in advance. This section provides information and guidance with respect to the process and the follow-up required of Agencies.

- **1. DEED:** The form of the deed is governed by the Virginia Code (See Va. Code §55-48). Each deed should be approved as to form by the Attorney General's Office. (Note: Although approval of the form of the deed by the Attorney General is not legally required, it is unlikely that DGS will recommend approval of the transaction, or that the transaction will be approved, absent Attorney General approval).
- **A. How Title is to be Taken:** With the exception of institutions that are corporations, title is to be taken in the name of "The Commonwealth of Virginia, [name of the department, agency or institution]. Institutions that are corporations take title in their corporate name (See Va. Code §2.2-1148).
- **B.** Warranty of Title: Title should be conveyed to the Commonwealth by general warranty if possible. In some circumstances, special warranty is acceptable. Quitclaim deeds are in most cases unacceptable.
- **C. Legal Description:** Irrespective of whether a new survey is obtained, the acquisition of real property, by any means, must be supported by an adequate legal description. The legal description must afford the means by which the boundaries, with the aid of extrinsic evidence, can be accurately ascertained. Generally, an adequate description is one by which a person of reasonable intelligence can definitely locate all of the boundaries.
  - 1. **Appurtenant Easements; Reservations:** Any appurtenant easements to be acquired with or for the property, and any land or easement(s) to be reserved by the grantor, likewise must be accurately described.
- **2. SETTLEMENT DOCUMENTS:** Settlement documents that require the signature of the purchaser typically include:
  - Settlement Statement. The Settlement Statement provides an itemized list of payments to and from each party, and each party must sign the Statement to attest to its accuracy. The Agency's representative must check the Settlement Statement very carefully to avoid later disputes and possible litigation.
  - IRS form 1099S (Federal Information Returns in Real Estate Transactions). This form is not required for acquisition by gift, for transactions involving less than \$600.00, when the grantor is a corporation, or when the transferor is the U.S.A. or is a political subdivision of the U.S.A. or of Virginia.
  - Virginia Form R-5 or R-5E. May be required when a nonresident (defined as a nonresident individual, estate or trust, every partnership or S corporation which has nonresident partners or shareholders, or a foreign corporation) receives payment for the transfer/sale of fee simple title to real estate in Virginia.
- **3. FINAL WALK-THROUGH:** With limited exceptions, any agreement between the parties becomes ineffective at the time title transfers. It is therefore important to conduct a final walk-through of the property just prior to closing. The final walk-through will reveal damage or other changes that may have occurred during the contract period.
- **4. RECORDATION:** Before funds are disbursed, a final rundown of the title must be performed and the deed must be recorded in the land records of the county or city within which the property is situated. Otherwise, there is a risk that an unknown lien could be recorded against the property between the time of the title search and the time of recording. In the worst case, the property could have been conveyed to another party. In any case, it is often difficult to rectify a title problem after disbursement of the funds.
- **A. Recording**: The recording clerk (usually the Circuit Court Clerk) will review the documents for acceptability and confirm that the correct recording fees are attached before admitting the documents to record. The clerk will

- then affix a Document Number and a Deed Book (or Map Book) and Page Number to the original document. A clerk's stamp, typically located on the last page of the document, identifies the location, the date and time of recordation, the Deed Book and page number, and the name of the Circuit Court Clerk. The recording clerk will also issue a receipt that contains the recordation information.
- **B. Document Standards:** The clerk may refuse to accept any document for recordation that does not meet the specifications set forth in Virginia Code <u>§17.1-223</u> (Records, Recordation and Indexing). Additional references relating to the form and recordation of documents may be found in Virginia Code Sections <u>17.1-236</u>, <u>42.1-76</u>, et seq.(Virginia Public Records Act), <u>55-48</u>, <u>55-58</u>, and <u>55-106</u> through <u>55-142.9</u>.
- **C. Recordation Taxes:** Deeds to the Commonwealth are exempt from recordation taxes imposed by Virginia Code <u>§58.1-801</u> pursuant to <u>§58.1-811.A.3</u>. This information should be cited at the top of the deed.
- **5. CENTRAL RECORDS:** The Bureau of Real Property Management maintains copies of deeds and other transfer instruments, along with plats and maps, for all state-owned properties in accordance with Virginia Code §2.2-1136.B. The Bureau also maintains an electronic database containing information on state-owned and leased facilities. *Copies of these records may be obtained by contacting the Bureau of Real Property Management.*
- **A. Submitting Records:** Within ten (10) days after the clerk's office returns the recorded transfer instrument to the Agency, a copy of the instrument, showing recordation information, must be forwarded to the Bureau of Real Property Management. In addition, if a title policy has been obtained, provide a copy of the final policy. <u>Do not forward original documents to the Bureau for safe keeping.</u>
- **6. POST CLOSING:** Upon acquiring real property, the Agency must (1) enter the appropriate information regarding the asset in the *Fixed Asset Accounting and Control System* of the Department of Accounts, and (2) enter the appropriate information in the Virginia Agency Property System (VAPS) of the Department of Treasury's Division of Risk Management.